



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

April 22, 1991

Mr. Cril Payne
General Counsel
Comptroller of Public Accounts
Austin, TX 78774

OR91-206

Dear Mr. Payne:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12023 .

The Office of the State Comptroller of Public Accounts received an open records request for a copy of "the termination agreement for the Automated Collection System Software project between the Comptroller of Public Accounts and G. C. Services Limited Partnership." You seek a determination from this office, apparently pursuant to section 7(c) of the Open Records Act, as to whether two paragraphs of the termination agreement should be withheld from public disclosure pursuant to sections 3(a)(4) and 3(a)(10) of the Open Records Act. A representative of G. C. Services has provided this office with arguments for withholding this information.

We note at the outset that section 6 of the Open Records Act provides:

Without limiting the meaning of other sections of this Act, the following categories of information are specifically made public information:

....

(3) information in any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by governmental bodies, not otherwise made confidential by law.

Although the list of information expressly deemed public in section 6 does not override the act's exceptions to required public disclosure, the purpose of this section is to heighten the burden under the act of showing which exceptions apply and why. See Open Records Decision No. 514 (1988) and authorities cited therein. The representative of G. C.

Services has not met this burden. Your request for an open records decision is governed by Open Records Decision No. 514.

The general terms of a contract with a state agency may not properly be withheld under the Open Records Act. The paragraphs at issue do not pertain to an ongoing competitive bidding situation that would bring them under the protection of section 3(a)(4) *see, e.g.*, Open Records Decision No. 463 (1987), nor do they contain sensitive trade secrets or commercial or financial information that is protected by section 3(a)(10). *See* Open Records Decision No. 175 (1977) (resumes listing the experience of employees is not protected by section 3(a)(10)). Moreover, a governmental body cannot close information simply by entering into a contract provision that prohibits disclosure. Attorney General Opinion JM-672 (1987). Consequently, the termination agreement must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-206.

Yours very truly,



Jim Moellinger
Assistant Attorney General
Opinion Committee

JM/RWP/lb

Ref.: ID# 12023; 12024

Enclosures: Open Records Decision No. 514

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